IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15382 of 2004

Between:

B.Kuddush Basha, S/o B.Bakarmiah,
Musalimadugu Post, Kothapalli Mandal, Kurnool District

..... PETITIONER

AND

1 The Joint Collector, Kurnool, Kurnool District
2 The Revenue Divisional Officer, Kurnool District
3 The Mandal Revenue Officer, Kothapalli Mandal, Kurnool District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 2nd respondent bearing Rc.B.636/2004 dated 6-7-2004, as illegal, void and ultravires of the provisions of A.P. Sheduled Commodities (Regulation of Distribution by Card System) order, 2001 and consequently direct the respondents herein to restore the authorization of the Fair Price Shop of the petitioner situated in Musalimadugu Post, Kothapalli Mandal, Kurnool District and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.K.V.CHALAPATHI RAO

Counsel for the Respondents: The Government Pleader for Civil Supplies.

The Court at the stage of admission made the following Order:

The petitioner is the authorized dealer in respect of the Fair Price Shop of Musalimadugu Post, Kothapalli Mandal, Kurnool District. His authorization was suspended by the second respondent-Revenue Divisional Officer, Kurnool District through his proceedings dated 06-07-2004, pending enquiry into the alleged irregularities in distribution of commodities. Aggrieved by the same, this writ petition is filed.

Heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents.

Admittedly, against the order impugned, an alternative remedy is available by way of appeal before the first respondent-Joint Collector and the petitioner has already preferred such an appeal along with application for stay. Since the statutory appeal is pending before the first respondent, the petitioner cannot simultaneously invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Therefore, the relief as prayed for cannot be granted. However, keeping in view the plea of the petitioner that the first respondent has not considered his appeal and no orders have been passed even on his application for stay so far, I deem it

appropriate to dispose of the writ petition with a direction to the first respondent to dispose of the application for stay in the appeal filed by the petitioner against the order of the second respondent dated 06-07-2004 as expeditiously as possible, preferably within a period of one week from the date of receipt of this order.

The writ petition is accordingly disposed of. No costs.

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30-08-2004

kdl

To

1 The Joint Collector, Kurnool, Kurnool District.
2 Revenue Divisional Officer, Kurnool District.
3 Mandal Revenue Officer, Kothapalli Mandal, Kurnool District.

4 Two C.Cs. to the Government Pleader for Civil Supplies, High Court Buildings, A.P., Hyderabad. (OUT).

5 Two C.D. Copies.